

To: OGC SWERLO[OGC_SWERLO@epa.gov]
From: Carpien, Alan
Sent: Thur 8/13/2015 11:38:21 AM
Subject: Defense of EPA From Scott Sherman

Scott is mentioned twice in today's Wall Street Journal article. He's on the list of contacts as a "former Deputy Assistant Administrator." He is quoted at the end of the article.

EPA Halts Field Work at Mines After Toxic Spill

Agency contractor doing such work caused breach at Colorado's Gold King Mine

The EPA suspended mine work of the kind that caused a Colorado spill last week. Above, retention ponds are used to filter the runoff. ENLARGE

The EPA suspended mine work of the kind that caused a Colorado spill last week. Above, retention ponds are used to filter the runoff. Photo: Brennan Linsley/Associated Press

By
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The Environmental Protection Agency suspended investigative field work at mine sites nationwide Wednesday, a week after one of its contractors doing such work caused a breach at a Colorado gold mine that sent a surge of toxic sludge into a major southwestern river system.

EPA Administrator Gina McCarthy, who traveled to the affected region Wednesday, said in a directive that the agency is instructing its regions to cease field investigation work at mines "unless there is imminent risk." It wasn't immediately clear how many projects would be affected.

The agency is also working to identify sites similar to Colorado's Gold King Mine, where the breach occurred, to prevent any further potential spills, Ms. McCarthy said.

The breach released an estimated 3 million gallons of toxic, mustard-tinted sludge containing lead and arsenic into a river system that also spans New Mexico and Utah.

The area around where the accident occurred has long been tainted by contaminated runoff from old mines. The EPA, Colorado environmental officials and local advocacy groups have been working for close to two decades to stem the flow of toxic water from inactive mines.

The contractor that did the work at Gold King Mine is Missouri-based Environmental Restoration LLC, according to an EPA official and government documents reviewed by The Wall Street Journal.

The EPA, which was overseeing the servicing of the mine, had previously said an unnamed outside contractor was using heavy equipment when it accidentally triggered a breach in the abandoned mine, letting out wastewater that had built up inside it.

"Environmental Restoration LLC was working at the direction at EPA in consultation with the Colorado Division of Reclamation, Mining and Safety," an EPA official said Wednesday.

Officials at the company, based in Fenton, Mo., didn't return calls for comment.

A mine spill that sent an estimated three million gallons of toxic, mustard-hued sludge surging through a

regional river system forced Colorado and New Mexico to declare emergencies, freeing up state funds to help in the cleanup. Joe Barrett joins Tanya Rivero. Photo: AP

According to various government documents, Environmental Restoration had signed an agreement to provide emergency protection from pollutants from the mine, near Durango, Colo.

The money to fund the work on Gold King Mine comes out of the EPA's Superfund budget, according to Scott Sherman, a former deputy assistant administrator at the agency during the George W. Bush administration who oversaw Superfund and other waste programs.

The Gold King Mine wasn't a designated Superfund cleanup site, which would have meant far more funding. Environmental Restoration was trying to stop wastewater from escaping the mine at the time of the breach, government documents indicate.

The company is one of the largest EPA emergency cleanup contractors and the main provider for the emergency-cleanup and rapid-response needs in the region that covers Colorado. Since 2007, it has been awarded \$381 million in federal contracts, according to government procurement data compiled on USAspending.gov.

It has worked on some of the highest-profile disasters in recent history, including cleanup after Hurricane Katrina, the Sept. 11, 2001, terrorist attacks and the Deepwater Horizon Gulf of Mexico oil spill, according to the company's website.

In Washington, a Senate committee overseeing environmental issues is planning a hearing in September. The panel intends to ask agency officials about what precautions they took, what kind of expertise the people on site had and whether anyone was negligent, a legal term that if proven in a lawsuit could make EPA financially liable for any damages the spill caused.

"These are foundational questions that EPA will need to address so we can ensure this doesn't happen again and so that impacted parties get the proper support to move forward," said Senate Environment and Public Works Chairman James Inhofe (R., Okla.).

The spill's possible impact on water supplies is a major public health concern. On Wednesday, the Colorado Department of Public Health and Environment said Durango drinking water facilities could resume using water from the Animas River for customers.

New Mexico officials complained Wednesday the EPA was taking too long to give them crucial information about the impact on the Animas and San Juan rivers.

"We need to mobilize now," New Mexico Secretary of the Environment Ryan Flynn said in an interview. "But right now we don't have enough information."

Mr. Flynn said the state wants to mobilize portable treatment plants to remove dissolved metals from water withdrawn from the San Juan river downstream of the spill. He said New Mexico needs more data from the EPA about the toxic materials in the water as well as help in expediting necessary federal permits.

A notice in Durango, Colo., marking the closure of the Animas River because of the Gold King Mine spill.
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A notice in Durango, Colo., marking the closure of the Animas River because of the Gold King Mine spill.
Photo: Brennan Linsley/Associated Press

Ms. McCarthy said her agency was conducting an internal investigation and was also going to seek independent review of what happened.

"We will be saying more later what that independent review involves and who will be involved," she said.

Ms. McCarthy reiterated Wednesday that her agency takes “full responsibility for this incident.”

A spokeswoman for EPA’s inspector general said Wednesday the office was considering initiating an investigation based on a just-received request from the House oversight committee.

The investigation “would focus on any negligent, reckless, administrative misconduct or criminal activity by any EPA staff or contractors,” the spokeswoman said.

Former EPA officials said last week’s mine breach may not be evidence of a broader problem within EPA over how it handles cleanup sites like abandoned mines.

“I don’t see this as a systematic problem at EPA,” Mr. Sherman said. “EPA is very good, year after year, in conducting these types of removal actions.”

—Jim Carlton and Dan Frosch in Colorado contributed to this article.